

Applicant : Simon Piers Robinson  
Serial No.: 10/619,646  
Filed : July 11, 2003  
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REMARKS

Claims 35-56 were pending in the subject application (as renumbered by the Examiner in the May 24, 2006 Office Action). By this Amendment, applicant has canceled claims 35-55, amended claim 56, and added new claims 57-75 directed to the elected invention.

In the May 24, 2006 Restriction Requirement, the Examiner required restriction to one of the following allegedly distinct inventions as follows:

- I. Claims 35-42 and 56, drawn to a nucleic acid, vector and host cell, requiring SEQ ID Nos. 1-30;
- II. Claims 45-46, drawn to a method of increasing/decreasing the level of PPO activity, requiring SEQ ID Nos. 1-30;
- III. Claims 43-44, drawn to a transformed plant, requiring SEQ ID Nos. 1-30; and
- IV. Claims 47-55, drawn to a method for isolating a nucleic acid molecule, requiring SEQ ID Nos. 1-30.

The Examiner alleged that the inventions are distinct, each from the other.

Furthermore, the Examiner required applicant to specify one nucleic acid sequence (SEQ ID NO.) for examination, referring to the 1192 O.G. 68 Notice (November 19, 1996).

The Examiner also noted that restriction between product and process claims has been required. Accordingly, the Examiner acknowledged the duty to examine process claim if applicant

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elects claims directed to the product and a product claim is subsequently found allowable.

Applicant's Response

In response, applicants hereby elect, with traverse, Group I, directed to a product. Amended claim 56, and new claims 57-66 are directed to a product within elected Group I.

Applicant has also added claims directed to a process of making the elected product, and to a method of using the elected product. Such claims must be examined in the same application pursuant to 37 C.F.R. § 1.141.

Furthermore, all of the pending claims recite a nucleic acid and a corresponding amino acid. An elected nucleic acid sequence should not be restricted from a corresponding amino acid sequence. Applicant respectfully submits that there is no burden on the Examiner to examine claims all of which recite a single nucleic acid sequence and a corresponding amino acid sequence. Therefore, the restriction set forth in the May 24, 2006 Office Action is believed to not be applicable to the currently pending claims.

Accordingly, applicant respectfully submits that all of the pending claim 56-75 should be examined in the subject application.

In view of the foregoing, applicants maintain that restriction is not proper under 35 U.S.C. § 121 and respectfully requests that the Examiner reconsider and withdraw the requirement for restriction. At minimum, applicants hereby request that the Examiner return to examine all of the pending non-elected claims

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which depend on and incorporate the limitations of an allowable claim.

No fee is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,

Gary J. Gershik

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:  
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